

AMENDED IN ASSEMBLY APRIL 16, 2001

AMENDED IN ASSEMBLY APRIL 4, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 578

Introduced by Assembly Member La Suer

February 21, 2001

~~An act to amend Section 14671.6 of the Government Code, and to add Section 25612 to the Public Resources Code, relating to energy facilities, and declaring the urgency thereof, to take effect immediately. An act to add Section 80136 to the Water Code, relating to electric power.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 578, as amended, La Suer. ~~State lands; leases; electric generation facilities~~ *Department of Water Resources: electric power: undercollections.*

Existing law authorizes the Department of Water Resources to enter into contracts for the purchase of electric power and sell that power to retail end-use customers and, with specified exceptions, to local publicly owned electric utilities at not more than the department's acquisition costs. The department is authorized, for these purposes, to issue revenue bonds not to exceed a certain amount upon authorization by written determination of the department and with the approval of the Director of Finance and the Treasurer.

Existing law requires the Public Utilities Commission to establish a ceiling of \$.065 per kilowatthour on the energy component of electric bills for residential, small commercial, and street lighting customers of

the San Diego Gas and Electric Company, through December 31, 2002, retroactive to June 1, 2000. If the commission finds it in the public interest, this ceiling may be extended through December 2003 and may be adjusted. The commission is required to establish an accounting procedure to track and recover reasonable and prudent costs of providing electric energy to retail customers unrecovered through retail bills due to the application of the specified ceiling. The accounting procedure is required to utilize revenues associated with sales of energy from utility-owned or managed generation assets to offset an undercollection, if undercollection occurs.

This bill would authorize the department to issue bonds, in whole or in part, for the purpose of offsetting all or part of any undercollection incurred under the \$0.065 per kilowatthour rate ceiling imposed under existing law, in addition to any other purpose authorized for the issuance of bonds under existing law.

The bill would require that debt service for any bond or portion of a bond issued for this purpose be funded with revenue associated with the sales of energy from utility-owned or managed generation assets within the service area of the San Diego Gas and Electric Company.

~~(1) Existing law authorizes the Department of General Services to lease, for up to 35 years, any real or personal state property for energy conservation purposes, or to permit the construction and operation of energy distribution systems, cogeneration facilities, and alternative energy supply source facilities.~~

~~This bill would expand that authorization by authorizing the department to lease that state property for the construction or operation of electrical generation facilities. The bill would also require the department, at the earliest possible time, to establish a process for the lease of state lands to be used for the siting and operation of electric generation facilities. The bill would require that any lease so entered into by the department provide for a 35-year no-cost lease of state lands used for an electric generation facility at a nominal cost, as determined by the department, and include provisions requiring that a lessee meet specified conditions pertaining to the use and generation of electric power generated at the site. The bill would require that, at the time a lease entered into pursuant to those provisions expires, the lessee shall have the option of renewing or extending the term of the lease, for another period mutually agreed upon by the department and the lessee, if the original terms and conditions of the lease are met. The bill would require the department, not later than 90 days after the effective date of~~

the bill, to make available to the public a list of all state lands that would constitute a suitable site for an electric generation facility.

(2) The bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$ majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 14671.6 of the Government Code is~~

2 ~~SECTION 1. Section 80136 is added to the Water Code, to~~
3 ~~read:~~

4 ~~80136. (a) In addition to any other purpose authorized for~~
5 ~~the issuance of bonds under this division, the department may issue~~
6 ~~bonds, in whole or in part, for the purpose of offsetting all or part~~
7 ~~of any undercollection incurred under Section 332.1 of the Public~~
8 ~~Utilities Code.~~

9 ~~(b) The debt service for any bond or portion of a bond issued~~
10 ~~for the purpose authorized under subdivision (a) shall be funded~~
11 ~~with revenue associated with the sales of energy from utility-owned~~
12 ~~or managed generation assets within the service area of the San~~
13 ~~Diego Gas and Electric Company.~~

14 ~~amended to read:~~

15 ~~14671.6. (a) Notwithstanding Section 14670, the Director of~~
16 ~~General Services, with the consent of the state agency concerned,~~
17 ~~or the Trustees of the California State University with Department~~
18 ~~of Finance and Department of General Services approval, may let~~
19 ~~for up to 35 years any real or personal state property for energy~~
20 ~~conservation purposes or to permit the construction and operation~~
21 ~~of energy distribution systems, cogeneration facilities, electric~~
22 ~~generation facilities, and alternative energy supply source~~
23 ~~facilities.~~

24 ~~(b) Any lease, agreement, or contract relating to the~~
25 ~~construction or operation of a facility described in subdivision (a)~~
26 ~~may provide for the sale of energy, performance of energy-related~~
27 ~~work, exchange of energy, generation of energy, or state assistance~~
28 ~~in development and operation of the project. The lease may~~
29 ~~contain any other provisions the director deems appropriate.~~

30 ~~(c) Any lease of state property entered into pursuant to this~~
31 ~~section may be at less than market value if the director determines~~

1 it will serve a statewide public purpose by implementing the policy
2 set forth in Section 25008 of the Public Resources Code. The
3 director or the Trustees of the California State University may
4 lease back the property and any facilities constructed thereon if
5 that lease is deemed to be in the best interest of the state.

6 (d) The director, or any other state agency with the approval of
7 the director, or the Trustees of the California State University with
8 the approval of the Department of Finance, may enter into
9 contracts regarding the operation of a facility described in
10 subdivision (a), or the providing, selling, exchanging, buying, and
11 use of energy in connection with the facility. Any costs or expenses
12 incurred by the Department of General Services or any other state
13 agency or the trustees in connection with the entering into and
14 management of any lease, agreement, or contract entered into
15 pursuant to this section may be reimbursed from the rentals or
16 other revenues from the leases, agreements, or contracts. No lease,
17 agreement, or contract shall be entered into pursuant to this section
18 unless the Chairperson of the Joint Legislative Budget Committee,
19 or his or her designee, is notified of the intention to execute the
20 lease, agreement, or contract at least 20 days prior to its execution.

21 SEC. 2.—Section 25612 is added to the Public Resources Code,
22 to read:

23 25612. (a) The Department of General Services, at the
24 earliest possible time, shall establish a process for the lease of state
25 lands to be used for the siting and operation of electric generation
26 facilities. Any lease of state lands that is entered into by the
27 department pursuant to this section shall provide for a 35-year
28 lease of state lands used for an electric generation facility, at a
29 nominal cost as determined by the department, and shall include
30 provisions requiring that a lessee meet both of the following
31 conditions:

32 (1) The electricity generated at the facility shall be committed
33 for use in California.

34 (2) The electricity generated at the facility shall be sold to
35 California consumers at a reasonable rate, as determined by the
36 Public Utilities Commission.

37 (b) At the time a lease entered into pursuant to subdivision (a)
38 expires, the lessee shall have the option of renewing or extending
39 the term of the lease, for another period mutually agreed upon by

1 the department and the lessee, if the original terms and conditions
2 of the lease are met.

3 (e) The department, not later than 90 days after the effective
4 date of this section, shall make available to the public a list of all
5 state lands that would constitute a suitable site for an electric
6 generation facility.

7 SEC. 3. The Legislature finds and declares that since the
8 summer of 2000, the State of California has experienced an
9 unprecedented energy shortage, which has contributed to the
10 enormous increases in the prices paid for power in the state's
11 wholesale power markets. These sudden and severe electricity
12 shortages threaten the health and safety of all citizens in the state,
13 weaken the vital nature of the high-technology economy that is
14 exclusive to our state, reduce the productivity of our farming
15 communities, and disrupt the education of children in the state.
16 Because it is likely that serious shortages of electricity will
17 continue until sufficient additional generation capacity is installed
18 and operational, it is the intent of the Legislature to facilitate the
19 long term well-being of the citizens of the state by providing an
20 incentive for the lease of state property in order for businesses to
21 expand while assisting in the production and supply of electricity
22 to the consumers in the state.

23 SEC. 4. This act is an urgency statute necessary for the
24 immediate preservation of the public peace, health, or safety
25 within the meaning of Article IV of the Constitution and shall go
26 into immediate effect. The facts constituting the necessity are:

27 Due to the shortage of electric generation capacity to meet the
28 needs of the people of this state, it is necessary that this act take
29 effect immediately.